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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/446,981 | 12/30/1999 | MASATO HUMA | 991504 | 3229 |

23850 7590 04/15/2004

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EXAMINER

TRAN, THANG V

ART UNIT PAPER NUMBER

2653

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/446,981

Applicant(s)

HUMA, MASATO

Examiner

Thang V. Tran

Art Unit

2653

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15, 29-32 and 37-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 and 29-32 is/are allowed.
- 6) ☒ Claim(s) 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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In response to a communication dated 04/02/0, an amendment dated 03/02/04 has been entered and considered with the following results:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Shikunami et al (WO 9630906).

Shikunami et al., according to Figs. 2, 9-10, shows a recording medium having a plurality of recording layers (layers 220, 260), wherein a first data are recorded on one of a plurality of recording layers (data recorded on layer 260) and data relevant to the first data (the same information as that of the first data) are recorded on another of the plurality of recording layers (data recorded on layer 220), the relevant data are higher in quality than the first data (second data recorded at density higher than the recording density of the first data) can be played back solely, and relevant data are inherently sampled at a cycle shorter than at which the first data have been same sampled (Note: since the sampling rate of the relevant data is larger than that of the first data, and wherein the another of the plurality of recording layers has a higher storage density than that of the one of the plurality of the recording layers, as recited in claims 37 and 39. Note: see an abstract and Figs. 2 and 9-10 of WO 9630906 or see respective disclosure of Figs. 2 and 9-10 of US 6,269,065 of record as a translation for Figs. 2 and 9-10 shown in the WO 9630906.

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Regarding claim 38, the frequency bandwidth of the relevant data is inherently wider than that of the first data since the sampling rate of the relevant is larger than that of the first data.

Note: The US 6,269,065, which is equivalent to the WO 9630906 used in this rejection, is not used as reference or prior art applied to reject the claimed invention, but it is just used as a translation for the WO 9630906.

Allowable Subject Matter

3. Claims 11-15 and 29-32 are allowed.

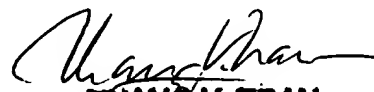
Response to Arguments

4. Applicant's arguments with respect to claimed invention have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (703) 308-1551. The examiner can normally be reached on Tuesday to Friday, from 7:30AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


THANG V. TRAN
PRIMARY EXAMINER